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1 I want Bill to know, Bill DeBois --  
2 -- you know, I come down here and this was my  
3 first trip where I actually had a chance to actually see the  
4 valley from the ground up. I ran through Holtville this  
5 morning and Bill, you're right, the train line stops just  
6 before you get into town.

7 So I didn't pick up that error in the EIR, but  
8 with folks like this I don't have to catch them all.

9 All right. Let me just try to summarize. In  
10 addition to agricultural economy, the county's interests are  
11 the urban economy and there's nothing in the EIR/EIS about  
12 maintaining future water supplies in this county for the  
13 county to develop its urban economy.

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14 The projections from SKAG show that Imperial  
15 County will grow by 100 percent in the next 20 years.  
16 That's more than any of the other affected counties, and yet  
17 there's no assurance that if this transfer takes place,  
18 partially or in full, that there will be remaining water  
19 that the county can then use for its own reasonable future  
20 needs. This is where the area of origin doctrine comes in.

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21 Obviously the county is concerned about the Salton  
22 Sea as a recreational and economical resource, as an  
23 environmental amenity, but most fundamentally for its public  
24 health importance. And I'll get to that in just a second.

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25 But then, finally our concern is -- and this

#### Response to Comment P3-42

The previous Draft EIR/EIS has been revised to reflect this concern. This change is indicated in this Final EIR/EIS in subsection 3.13 under Section 4.2, Text Revisions.

#### Response to Comment P3-43

The second implementation scenario for the Proposed Project (QSA Implementation) includes the more restrictive limit on IID's future diversions of Colorado River water on IID's Priority 3 diversions. Under the maximum transfers provided for under the QSA, IID would retain the ability to divert in excess of 2.6 MAFY of Colorado River water for agricultural, industrial, and domestic use within the IID water service area. This amount is anticipated to be sufficient for continued agricultural production at Baseline levels.

#### Response to Comment P3-44

Without a specific reference to a part of the Draft EIR/EIS, this comment is too general to respond to. Comment noted.

#### Response to Comment P3-45

Refer to response to Comment P3-3.

**Response to Comment P3-46**

Please refer to the following Master Responses in Section 3 of this Final EIR/EIS: *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan*; *Air Quality—Air Quality Issues Associated with Fallowing*, and *Air Quality—Wind Conditions at the Salton Sea* in this Final EIR/EIS.

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1 was part of our discussion during your break, with  
2 representatives from Imperial Irrigation District -- the  
3 difficulty that we have at this time in proposing mitigation  
4 measures because the project is still somewhat ill-defined.

5 Let me -- I do have some specific comments, and  
6 let me take that air quality one since I just mentioned  
7 that. As a technical matter the analysis assumes a 20,000  
8 acre-foot baseline of fallowing, but I'm advised that that  
9 20,000 acre-feet that may be fallowed is not true fallowing.  
10 It's not like it's out of production for a year for crop  
11 rotation. It's like out of production for a month while the  
12 farmer gets ready to plant his new crops. So I think the  
13 air quality analysis that starts with a baseline of 20,000  
14 acre-feet may be imprecise.

15 Incidentally, we have engaged air quality experts.  
16 They are doing their work now. We will get that work done  
17 in time for the State Board. We'll get that done in time  
18 for your 26th April deadline. It is not -- it is very much  
19 a work in progress now. But some highlights from our  
20 consultants primarily.

21 The air quality impacts of fallowing as opposed  
22 to air quality impact of the Salton Sea have not been  
23 addressed nor the amount of water that would be needed to  
24 mitigate the air quality impacts of fallowing. Some of the  
25 wind measurements, I'm told, do not include the most

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1 relevant sites and have been inaccurately portrayed.

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2 And as just an overview, our consultants who have  
3 talked also to the people in the Great Basin Air Pollution  
4 Control District, who I think will be participants in the  
5 State Board proceeding, believe very strongly that the  
6 Salton Sea is quite comparable to Owens Lake in terms of the  
7 potential for an air quality disaster if too much of the  
8 lakebed, or the seabed in this case, becomes suddenly  
9 exposed to air.

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10 People have spoken so much about fallowing, I  
11 guess I shouldn't spend too much more time to repeat the  
12 obvious, but we do need to fix the amount if it's going to  
13 be part of the proposal and assign to the transfer  
14 beneficiary the responsibility for mitigating the economic  
15 impacts that will flow from fallowing, which are not just  
16 confined to unfarmed impact.

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17 It's going to affect everything ranging from the  
18 county social services in dealing with employment or  
19 unemployment impacts. There may be public health issues  
20 that will arise out of that. All of these third-party  
21 impacts need to be quantified and an institutional mechanism  
22 found to ensure that that compensation ends up serving the  
23 appropriate beneficiaries of it.  
24 As I say, we've come a long way from the time when  
25 people denied any legal responsibility for third-party

#### Response to Comment P3-47

Please refer to the Master Response on *Air Quality—Salton Sea Air Quality Monitoring and Mitigation Plan* in Section 3 of this Final EIR/EIS.

#### Response to Comment P3-48

As part of its action approving or not approving the Proposed Project, it is anticipated that the IID Board will consider whether fallowing should be the exclusive conservation measure or one of a number of conservation measures, whether there should be a limit on the total amount of fallowing, and whether measures to offset economic impacts are appropriate. The EIR/EIS identifies the maximum acreage that would be fallowed if fallowing is the exclusive conservation method, as well as the magnitude of the socioeconomic impacts of fallowing and other conservation measures.

We also note that the Proposed Project anticipates a flexible conservation program with varied methods which could change over time (see response to Comment P3-3). Also, refer to the Master Response on *Socioeconomics—Property Values and Fiscal Impact Estimates* in Section 3 of this Final EIR/EIS.

#### Response to Comment P3-49

Further clarification of the impacts to Imperial County social services and revenues are addressed in the Master Response on *Socioeconomics—Property Values and Fiscal Impact Estimates* in Section 3 in this Final EIR/EIS. Also, see response to Comment P3-38.

**Response to Comment P3-50**

Please refer to the Master Response on *Other—Growth Inducement Analysis* in Section 3 of this Final EIR/EIS.

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1 impacts to where now they're on the table, but we've really  
2 got to finish the job. And while the EIR/EIS attempts to  
3 address them, and I will say, parenthetically, that's the  
4 other set of experts we've engaged to, if you will, validate  
5 or critique the socioeconomic impact analysis in the  
6 EIR/EIS.

7 But there is no effort to figure out  
8 institutionally. okay. what do we do with that information  
9 when we get it?

10 I guess -- oh, that's great, I hope I have wrapped  
11 this up. If I go over 30 seconds please let me, because I  
12 think I have truly given you the highlights of where I see  
13 the county's comments coming here.

14 I do want to -- I guess there's one other issue  
15 I'd like to touch on and then just conclude with a final  
16 point. Growth-inducing impacts, and we say this not to  
17 enter into the debate that you may hear somewhat tomorrow  
18 night in San Diego about the growth-inducing impact from San  
19 Diego's point of view. but the EIR/EIS says that this is not  
20 going to induce new growth because it replaces water that's  
21 already there.

22 And frankly as I look at this as a lawyer, that is  
23 probably the easiest flaw in the document to just put your  
24 finger on. The whole rationale for the transfer is to  
25 enable San Diego to grow as has been projected but that has

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1 not yet taken place.

2 To its credit, the Bureau of Reclamation  
3 recognizes that the no-project alternative includes a  
4 reduction of 600,000-plus acre-feet in water -- Colorado  
5 River water to California. And so the no-project scenario  
6 is that San Diego is going to take the brunt of that. And  
7 this project is designed to avoid that and to enable San  
8 Diego to grow, to increase their population by one million  
9 over the next 20 years.

10 Without passing judgment on whether that's a good  
11 or bad decision or aspiration by the folks in San Diego,  
12 we've got to recognize at the outset that this is a  
13 growth-inducing project, and where that's important to  
14 Imperial County is that if the third-party impacts are  
15 justifiable, part of their justification is that there's a  
16 source to provide compensation, to mitigate those impacts.  
17 And one of the consequences of denying growth-inducing  
18 impacts in San Diego is to, if you will, undervalue the  
19 economic value of that water in San Diego and, therefore,  
20 undervalue potential for contributions from the benefiting  
21 area.

22 The final point -- and I think this won't be a  
23 surprise to the Bureau from the comments we submitted on the  
24 EIR/EIS, but this is a bottom-up project. This project,  
25 this water transfer, if you will, defines the QSA which in

**Response to Comment P3-51**

The Lead Agencies for the Proposed Project will consider public comments on the IA EIS and QSA PEIR prior to making a decision on the Project. Similarly, the Lead Agencies for the IA and QSA will consider public comments on all three documents, and the responses to those comments, prior to making a decision on the IA and QSA.

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Response to Comment P3-52

Comment noted.

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1 turn defines the implementation agreement that the Secretary  
2 will have to implement. And we just don't see how you can  
3 close off the comments on those first two documents without  
4 fixing this transfer.

5 And I was somewhat pleased to see, if that's the  
6 right word, that the EPA in their comments on the  
7 implementation agreement made the same point. In fact, if  
8 there's anything we feel good about, I guess it's the EPA  
9 comments largely reflected our preliminary view.

10 But I emphasize we're not here trying to build a  
11 case against this document or against this project. We're  
12 truly trying to help the lead agencies in the final document  
13 produce something that's going to be useful for us all to  
14 come to a resolution.

15 Thank you.

16 MS. CARD: Thank you.

17 For the record that statement was made by Antonio  
18 Rossmann. I'm not sure that's reflected.

19 Would anyone else like to step forward?

20 Yes. Mr. Ray -- excuse me, Mr. DuBois. And then  
21 Mr. Ray.

22 MR. DU BOIS: Yes, I'm Bill DuBois coming up for the  
23 second breath.

24 There were some points that I did think would be  
25 well for me to make right now in case I don't complete

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1 making my written comments available for you.

2 One is the agreement that IID made with San Diego  
3 was on the basis of no fallowing. Now, it's surprising to  
4 me that almost the entire EIR is based on fallowing. It's  
5 as if IID and San Diego agreed to speak only Russian and  
6 then the EIR was written in Chinese. It just doesn't add  
7 up.

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8 The second point is Imperial has a habit of  
9 finding new crops to grow, and when they're popular, we  
10 increase our water use. And a new crop is -- is  
11 anticipated. It may not come through, but it's anticipated  
12 sugar cane. And it uses a lot of water. And its product is  
13 partially as an additive to gasoline. And if that's the  
14 case, Imperial Valley will be using a lot more water than  
15 they use now.

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16 My third point is that the reason that it's --  
17 there's no capital here to invest in rearranging our farms  
18 and our irrigation system is because we don't have any faith  
19 in the longevity of this contract, this proposed contract,  
20 because it states that San Diego can withdraw under  
21 circumstances if they decide that their expenses are too  
22 great, either for environmental reasons or for wheeling,  
23 then they back out and we got the money invested. And what  
24 do we do then?

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25 And my fourth point is that the agreements don't

### Response to Comment P3-53

The Draft EIR/EIS considers a range of conservation measures, including fallowing. In Chapter 2 of the Draft EIR/EIS, the Lead Agencies recognize that the IID/SDCWA Transfer Agreement provides that fallowing would not be a permitted conservation method under IID's contracts with landowners. Thus, unless the fallowing prohibition provisions of the IID/SDCWA Transfer Agreement are waived or modified, fallowing by landowners could not be used to conserve the primary amount to be transferred to SDCWA. However, the IID/SDCWA Transfer Agreement does not prohibit fallowing by IID (as opposed to individual landowners) to conserve the primary amount or fallowing by either IID or landowners to create the discretionary amount.

### Response to Comment P3-54

Please refer to the Master Response on *Socioeconomics — Crop Type Assumptions for Socioeconomic Analysis* in Section 3 of the Final EIR/EIS. It would be speculative to anticipate whether or when new crops might be introduced to the IID water service area's agricultural crop rotation during the 75-year period of the Project, or what these crops might be. The modeling assumption used for the economic impacts analysis assumes that the historic range of crops grown in the region would continue to be grown into the future.

In addition, the predicted water requirements for agricultural production in the Imperial Valley will not be compromised by the Proposed Project. Under the maximum transfers provided for under the QSA, IID would retain the ability to divert in excess of 2.6 MAFY of Colorado River water for agricultural, industrial, and domestic use within the IID water service area. This amount is anticipated to be sufficient for continued agricultural production at Baseline levels.

### Response to Comment P3-55

The comment is noted. The purpose of the Draft EIR/EIS is to evaluate the environmental impacts of the Proposed Project rather than the viability of the water conservation program in the Imperial Valley. The impact to farmers of early termination of the transfer program would be dependent on the terms and conditions of the contracts IID signs with farmers to implement the conservation program.

**Response to Comment P3-56**

The IID/SDCWA Transfer Agreement has an initial term of 45 years after transfers commence. Once the primary and discretionary amounts are established and fully phased in, IID must continue to conserve and transfer these amounts, and SDCWA must continue to acquire these amounts, for the initial term of 45 years. Thereafter, IID and SDCWA each have an option to extend the term for an additional 30 years, until 2077. If both IID and SDCWA opt to extend the term of the IID/SDCWA Transfer Agreement, SDCWA and MWD would also need to extend the term of the MWD/SDCWA Exchange Agreement.



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1 all end at the same time. And San Diego doesn't have an  
2 agreement with MWD but wheel during the entire length of the  
3 75 years, but either party can demand that the agreement  
4 extend, that the wheeling extend or the transfer extend for  
5 75 years. That doesn't add up.

6 So somehow the EIR -- I guess it's up to the  
7 EIR to sort that out for us. And it doesn't do that.

8 Thank you very much.

9 MS. CARD: Thank you.

10 That was Mr. Bill DuBois.

11 Please state your name before you present your  
12 statements.

13 MR. RAY: I'm George Ray and I'll be presenting the  
14 second portion of my talk today.

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15 The EIR/EIS proposes two different approaches to  
16 deal with mitigation regarding the Salton Sea. But I think  
17 there may be a better and less expensive alternative to the  
18 two approaches. Approach 1, as you recall, is the tilapia  
19 hatchery, and proposal 2 is the conservation and the  
20 fallowing. Please consider this third approach:

21 Delta improvement -- allow the Sea to evaporate  
22 naturally and as the shoreline recedes, construct and manage  
23 river delta-like landforms, meandering streams, islands,  
24 marshes, shallow freshwater lakes and other landforms  
25 associated with a nearly flat river delta landscape. As the

### Response to Comment P3-57

The comment recommends consideration of an additional approach for mitigating impacts of a declining Sea elevation on a variety of fish and wildlife species. The recommended approach outlines the potential benefits of actively working with freshwater (drain water) discharges to the Sea to create a network of vegetated channels that would support fish and wildlife. This approach is consistent with the proposed pupfish and tamarisk scrub habitat conservation strategies. As identified in measure Pupfish -3 and the subsequent discussion of its justification, the HCP directs IID to manage the drain channels (including the New and Alamo Rivers) as they extend over exposed seabed. This is specifically intended to benefit pupfish, but also would be expected to benefit other species as well. In addition to the management of these new channels for the benefit of pupfish, the conservation strategy for tamarisk scrub in the HCP outlines measures that would require IID to create native tree habitat (up to 1,421.5 acres). If the soil characteristics of the exposed seabed and water quality were appropriate to support native trees, these new channels could be used for these plantings. The HCP IT would determine the locations and specific characteristics of native tree habitat. The concepts recommended for inclusion are already elements of the currently proposed HCP.

1 shoreline recedes, populate the river delta landforms with  
2 suitable plant species that attract animal wildlife suitable  
3 to this environment, an environment -- approximately the  
4 environment that once existed in this seabed not so long  
5 ago.

6           On the south end of the basin, the mouth of the  
7 New River, the Alamo River, and numerous IID drains could be  
8 extended and landscaped to better resemble rivers and  
9 streams meandering across the bottom of a dying sea.  
10 Similarly, the White River mud control ditch and other  
11 irrigation and storm drains at the north end of the Sea  
12 could also be extended to better resemble streams and rivers  
13 meandering across that end of the basin creating, again,  
14 attractive landforms and useful habitat for many wildlife  
15 species.

16           Managed delta habitats will benefit mammals, fish  
17 and other wildlife as well as birds. In other words,  
18 mitigate for the receding shoreline, mitigate for water  
19 quality. The managed delta could be intended -- or should  
20 be intended to complement but not duplicate the Sonny Bono  
21 National Wildlife Refuge.

22           The managed delta approach will leave our valley  
23 with an attractive, sustainable wildlife refuge that we can  
24 be proud of, a refuge that favors native species over exotic  
25 species. This approach can offer a wide variety of

1 sustainable recreational opportunities to valley residents  
2 and others. This approach puts to productive use thousands  
3 of acres of seabeds and shorelines the IID or the government  
4 already owns.

5 This approach would go a long way in dealing with  
6 alleged dust problems that may result in the shoreline if  
7 the Salton Sea recedes and in dealing with water quality  
8 problems that arise from conservation. If properly done it  
9 may even attract funding from a variety of nonprofit  
10 foundations.

11 The HCP does propose 160 to 652 acres of managed  
12 marsh to offset impacts of water quality changes and to  
13 mitigate the operation and maintenance activity on drains.  
14 However, the HCP proposes to place the marsh on farmland,  
15 not drying seabeds, and would use drain water with less than  
16 two parts per billion salinity. This managed marsh should  
17 be located on the drying seabed and integrated into the  
18 proposed managed delta.

19 By doing this thousands of acres of IID land and  
20 government land may be put to good use and allow more  
21 Colorado water to be used for economic development in the  
22 Imperial Valley. Best of all, this Approach 3 will not  
23 leave our valley landscape covered with huge piles of salt,  
24 evaporating salt ponds, energy-consuming evaporators, and  
25 even more idle farmland.

### Response to Comment P3-58

The commenter recommends integrating the managed marsh required to be constructed under the HCP with the proposed managed delta approach, which is mentioned in Comment P3-57, and locating the managed marsh on the Seabed. A managed delta approach is not proposed as part of the Proposed Project and therefore is not a consideration as to where the managed marsh units will be located. However, if the Salton Sea Restoration Project adopts the managed delta recommendations, there will be an opportunity to integrate the approaches. In implementing the HCP, the HCP Implementation Team will be involved in locating the managed marsh units and could recommend installing managed marsh units in areas of exposed seabed if sufficient area is available and soil characteristics are appropriate.

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**Response to Comment P3-59**

See responses to Comments P3-12, P3-13, P3-15, P3-57, and P3-58.

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1           It will partly mitigate for esthetics of a drying  
2 seabed, possible dust problems, help mitigate for odor  
3 problems, help mitigate for lowered water quality and help  
4 mitigate for a retreating shoreline.

5           In closing, I am compelled to note the portions of  
6 the HCP relating to the Salton Sea tend to promote political  
7 ecology rather than wildlife ecology.

8           Environmental law and HCP should have a bias  
9 toward sustaining native species and a bias towards  
10 returning the environment to its more natural state.

11          The HCP places far greater emphasis on what is  
12 perceived to be good for a few fish-eating birds, pelicans,  
13 cormorants and black-skimmers, all of them -- than all of  
14 the remaining species proposed for coverage in the HCP.

15          Ladies and gentlemen, I think we need a balanced  
16 approach. Approaches 1 and 2 are not in the best interests  
17 of most of our native wildlife. Approaches 1 and 2 are not  
18 in the best interests of most Imperial Valley residents.  
19 Approaches 1 and 2 are not in the best interests of Imperial  
20 Irrigation District and they're not in my best interest.

21          The proposed managed delta is not a perfect  
22 solution nor is this a perfect world. Regardless of whether  
23 a managed delta was previously examined or not, it merits a  
24 thorough analysis to the EIR/EIS. I urge the inclusion of  
25 analysis of a managed delta approach in the EIR/EIS to

1 mitigate for impacts on the Salton Sea region.

2 Thank you for your attention.

3 MS. CARD: Thank you.

4 Would anyone else like to step forward and provide  
5 a statement?

6 Well, it appears that no one else wishes to make a  
7 statement. And in that case I'll read a short concluding  
8 statement on behalf of the Bureau and the Fish and Wildlife  
9 Service.

10 On behalf of the Bureau of Reclamation and the  
11 U.S. Fish and Wildlife Service and everyone here, thank you  
12 for participating in this meeting.

13 The Bureau of Reclamation and the Fish and  
14 Wildlife Service will consider all the comments made here  
15 today, as well as all written comments received on or about  
16 April 26, 2002. These comments will be considered in  
17 finalizing the EIR/EIS and before selecting an alternative  
18 and executing a Record of Decision and issuing an Incidental  
19 Take Permit under the ESA.

20 This concludes the hearing.

21 Good night.

22

23 (The proceedings were concluded at 6:33 p.m.)

24

25

1                   REPORTER'S CERTIFICATE  
2                   STATE OF CALIFORNIA, COUNTY OF RIVERSIDE  
3  
4                   I, JUDITH WICKLUND, CSR NO. 11789, a Certified  
5 Shorthand Reporter for the state of California, do hereby  
6 certify:  
7                   That said proceedings were taken before me at the  
8 time and place therein stated and was thereafter transcribed  
9 into print under my direction and supervision; and I hereby  
10 certify that the foregoing is a true and accurate transcript  
11 of my shorthand notes of the proceedings.  
12                  I further certify that I am in no way interested  
13 in the event of these proceedings, and that I am not related  
14 to any of the parties hereto.  
15  
16 WITNESS my hand this 5th day of April, 2002.  
17  
18  
19                   \_\_\_\_\_  
20                   JUDITH WICKLUND, CSR NO. 11789  
21  
22  
23  
24  
25